



## **Planning Lunches at Noon (PLAN) Monthly Webinar Series**

### **Welcome to OSI's PLAN Monthly Webinar Series!**

The webinar will begin shortly. Please mute and turn off camera.

#### **Check out OSI's Planning and Zoning Training Website For:**

- Slides and recording of all completed webinars in the PLAN series
- Schedule for upcoming webinars
- A short, anonymous online survey to gather feedback and to suggest topics for future webinars

**[www.nh.gov/osi/planning/planning-training](http://www.nh.gov/osi/planning/planning-training)**

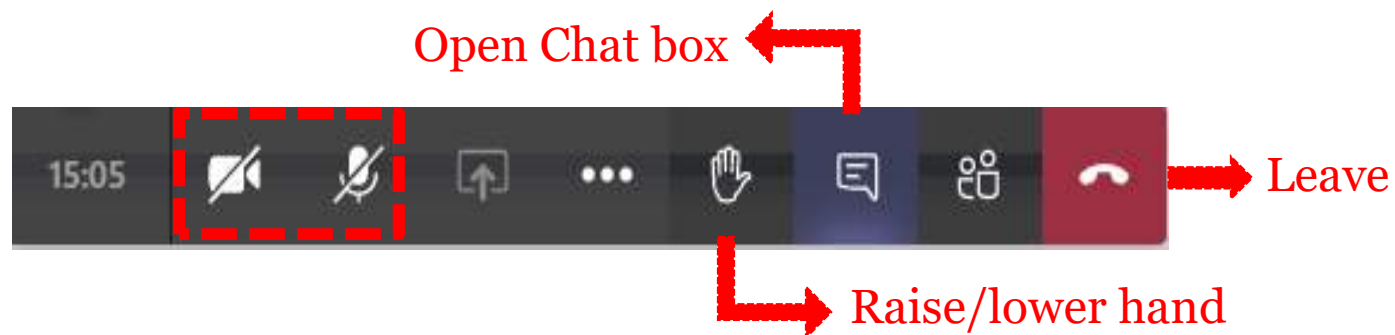
# Webinar Logistics

- Presentation then Question and Answer session

Please type questions into chat box

- Please be sure to **turn off** your camera and your microphone now.

We will be **recording** the presentation portion of this webinar. Any camera videos that are on during this portion may become part of the recording.



# **Welcome to the Board!**

## **Introduction to Local Land Use Boards**

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**APRIL 15, 2021**

**MICHAEL KCLASS, PRINCIPAL PLANNER**

**STEPHANIE VERDILE, PRINCIPAL PLANNER**

# Office of Strategic Initiatives – Planning Division

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- **Municipal and Regional Planning Assistance**
  - Technical assistance, training, handbooks, and resources
  - Annual municipal land use regulations survey, results and maps
- **State Data Center**
  - Population and housing data (in partnership with U.S. Census)
  - 2020 Census information, outreach, and training
- **Floodplain Management Program**
  - 219 communities participate in the National Flood Insurance Program – adoption and enforcement of floodplain regulations
  - Technical assistance, training, and resources

# Today's Roadmap

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- Provide background and history on planning
- Introduce land use boards and their purpose
- Outline basics of planning process
- Discuss board procedures
- Offer tips on how to be a good board member

# Why Regulate Land Use Development?

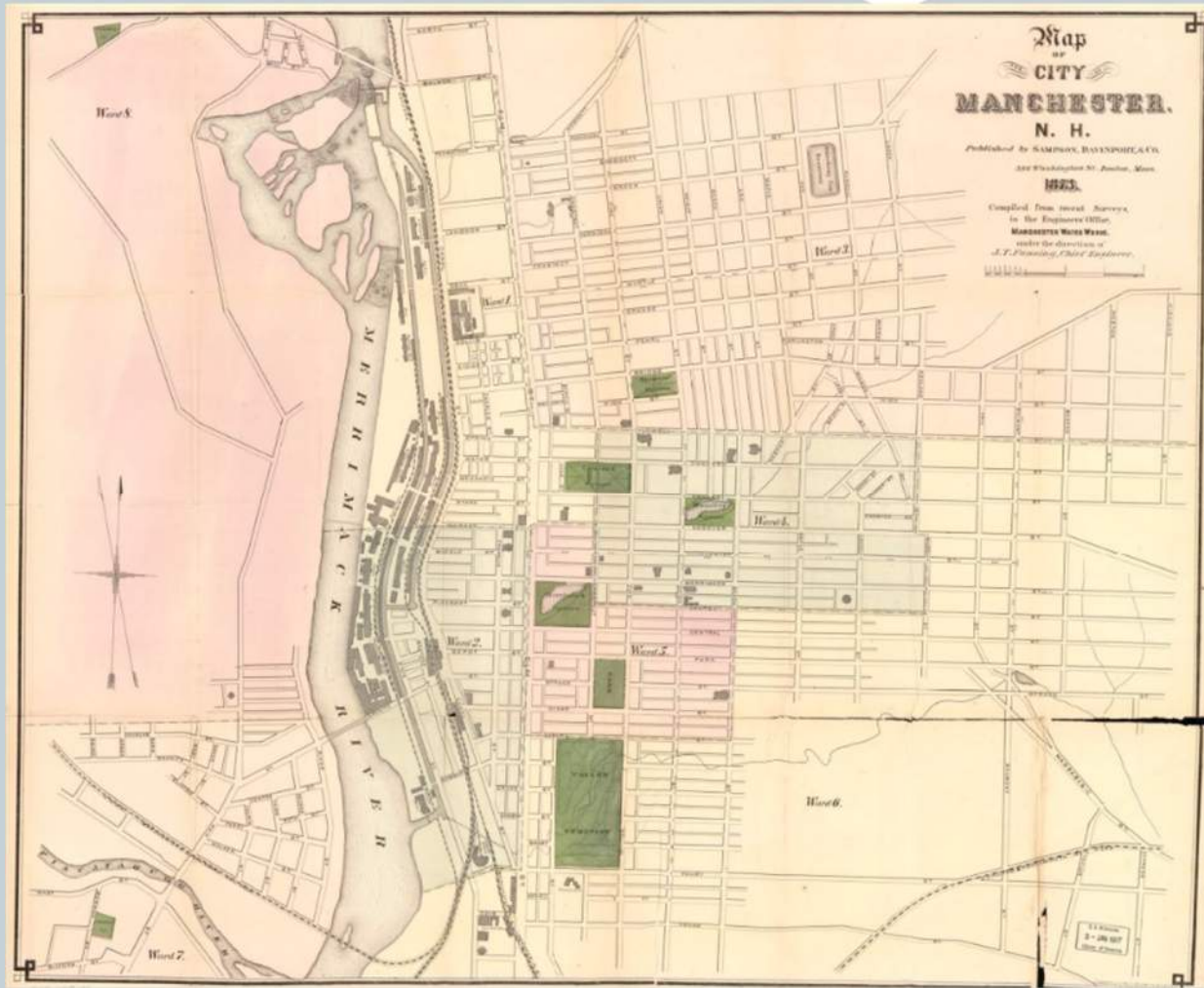
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## Foundations of Planning

- Health
- Safety
- Welfare

# Why Regulate Land Use Development?

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1800's  
Planned  
Industrial  
Towns &  
Cities

# Livability Principles and Smart Growth

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**Traditional  
Settlement  
Patterns**



**Community  
and Economic  
Vitality**



**Housing  
Choices**



**Natural  
Resources  
Functions &  
Quality**



**Transportation  
Choices**



**Climate Change  
& Energy  
Efficiency**

# Hot Topics

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- Housing, Housing, Housing
  - Housing availability and affordability
  - Accessory Dwelling Units
  - Short-term Rentals

# Planning and Land Use Regulation Law

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- New Hampshire is NOT a Home Rule State
- RSAs – Revised Statutes Annotated
  - ✦ Planning and Zoning laws  
RSA Chapters 672 to 678
  - ✦ Right to Know Law  
RSA Chapter 91-A
- Administrative Rules
- NH Supreme Court

# Land Use Boards

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## **RSA 672:7 - defines land use board**

- Planning Board
- Zoning Board of Adjustment
- Historic District Commissions
- Building Inspector/Building Code Board of Appeals
- Others authorized by RSA 673 or the legislative body
  - ✦ Heritage Commission
  - ✦ Agriculture Commission
  - ✦ Housing Commission

# But Not the Conservation Commission

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- Not defined as a land use board. It is established under RSA 36-A.
- The PB and ZBA often seek its opinion. Its opinion is advisory.
- Charged with protecting municipal natural resources

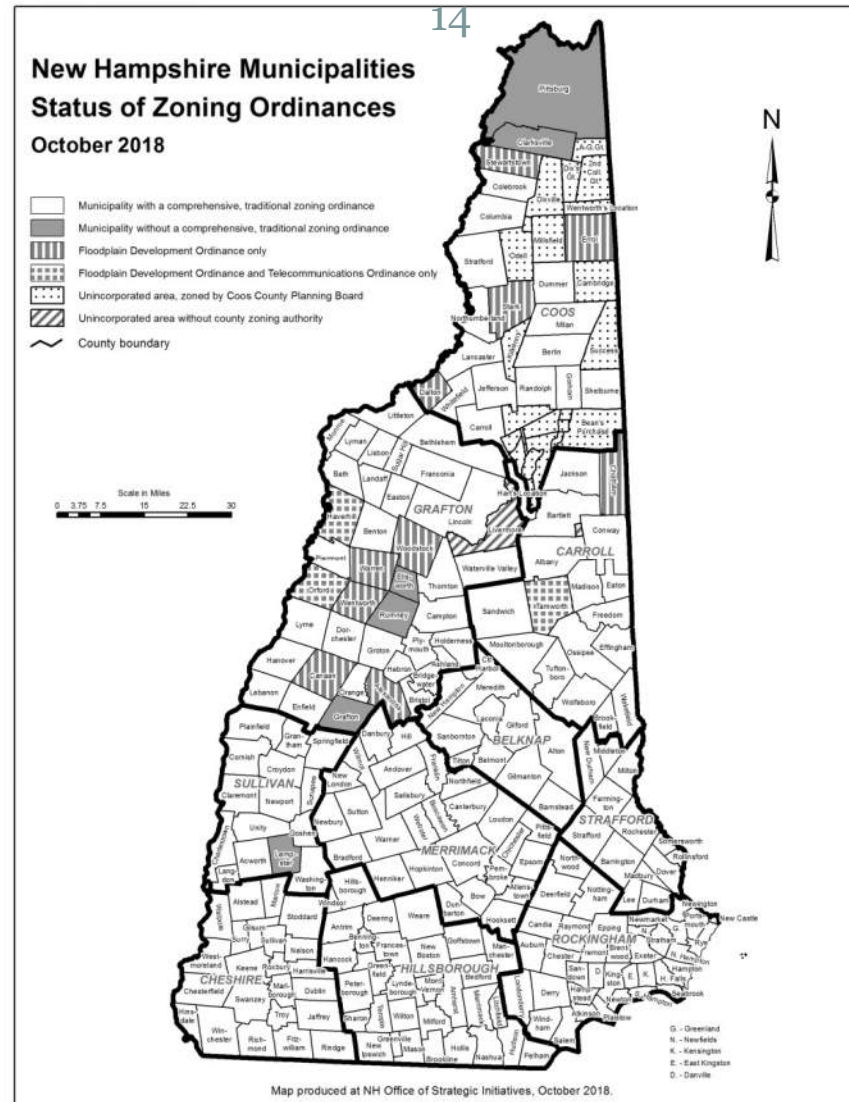
# Zoning Board of Adjustment Roles

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## Only Enumerated Powers (RSA 674:33)

- Appeals of Administrative Decisions
- Variances → Based on statutory criteria
- Special Exceptions → based on local ZO criteria
- Equitable waiver
- Other...

# NH Zoning Status



# The Planning Process

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# Planning Process

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Create Planning Board

Set Bylaws

Adopt Master Plan

Capital Improve-  
ment Program

Impact Fees

Zoning  
Ordinance

Zoning Board  
of Adjustment

Subdivision  
Regulations

Site Plan  
Regulations

# The Master Plan

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- Describes how, why, when and where the community should build, rebuild and preserve
- Foundation for land use and development principles and regulations
- Legal standing to the implementation of the Town's vision and land use chapters
- Necessary for the implementation of Impact Fees

# The Master Plan

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# Capital Improvements Program (CIP)

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- Is a planning and budgeting tool used by municipalities for the financing and purchase of municipal expenses over an extended period of time.
- Legislative body authorizes the adoption, creation, and amendment of a CIP.
- Authorization should include who is responsible either the planning board or a CIP Committee with a planning board member
- The creation, maintenance, and amendments to the CIP then lies with the Planning Board or a CIP Committee.

## CIP cont'd

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- Helps a municipality prioritize and plan for major expenses and purchases without causing large spikes in the tax rate;
- Utilizes the master plan to identify and prepare for areas with development pressures and meet community wishes for locating and financing community facilities;
- Creates cooperation and understanding of municipal needs between municipal boards, the public, and municipal departments by reviewing and prioritizing department needs and costs for the town;

# Zoning Ordinance

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- Adoption of a Master Plan is a prerequisite
- The Planning Board RECOMMENDS and does not adopt zoning ordinances
- The Zoning Ordinance and amendments should support or implement the goals of the Master Plan

# Zoning Adoption

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- **Planning Board's Role:**
  - Reviews and drafts proposals based upon needs
  - Holds a public hearing to review feedback on proposed ordinance or amendments
  - Vote to send the ordinance or amendment to the ballot (part of Town Meeting process)
- **Legislative Body Approval:**
  - Placed on agenda and discussed at deliberative session or town meeting
  - Placed on ballot and voted on by the community's residents
- If the vote passes, the draft is then incorporated into the Zoning Ordinance

# Subdivision and Site Plan Adoption Process

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## **The Planning Board:**

- Reviews and drafts proposals
- Holds a public hearing
- Adopts the proposal

# Subdivision Regulations

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## **MAY Address:**

- Services
- Street Layout
- Utilities
- Health
- Open Space
- Configuration
- And more...

# Site Plan Regulations

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## **MUST Address:**

- Procedures
- Purpose
- Standards
- Performance Guarantees
- Waiver Provisions

# Site Plan Regulations

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## **MAY Address:**

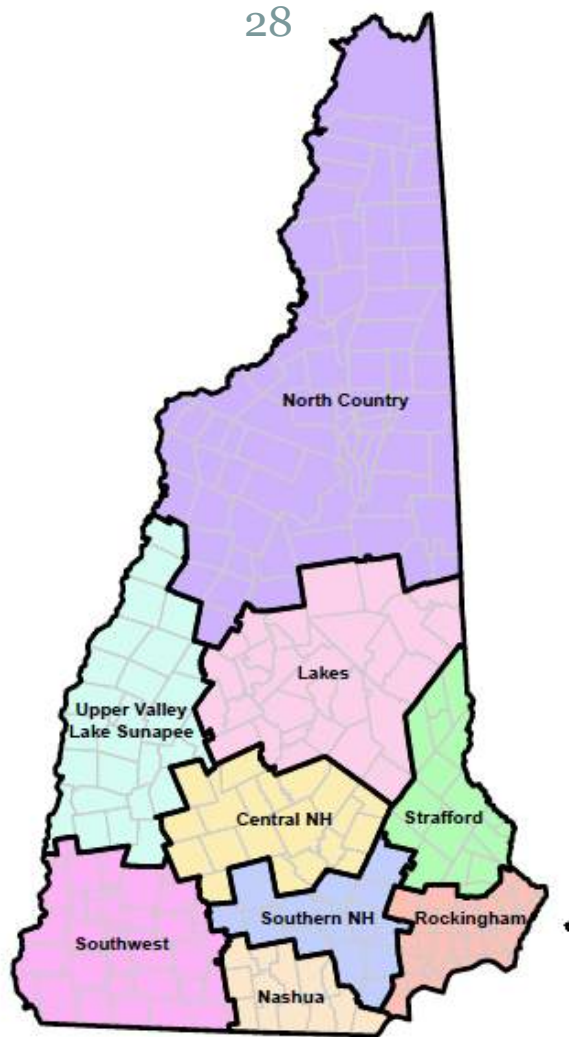
- Traffic
- Parking
- Utilities
- Landscaping
- Building location
- Signage
- Lighting
- Noise

# Other Regulatory Functions

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- Off-Site Improvement Exaction, specific to site plan and subdivision development
- Regulation of Earth Excavations in which they are the “Regulator”
- Acceptance of Streets (RSA 674:40)
- Construction on Class VI or Private Roads (RSA 674:41)
- Utility or road maintenance by state or municipality on scenic roads (RSA 231:157-158)
- Driveway Regulations (RSA 236:16)
- Innovative Land Uses Controls (RSA 674:21)

# Regional Planning Commissions



# Planning Staff

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- Town planning staff (or not...)
- RPC consultation
- Town Engineer
- Other consultation

# The Working Board

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# Types of Meetings

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- Public v. Nonpublic
  - ✦ Meeting with legal counsel
- Meeting v. Public Hearing

# Board Meetings

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- Planning Board Notice of a Public Hearing-RSA 676:4.I(d)(I)
- ZBA Notice of Public Hearing- RSA 676:7
- Adoption and Amendment of Master Plan, Subdivision and Site Plan Regulations, and Historic District ordinances-RSA 675:6 and 675:7
- Zoning Amendments-RSA 675:7 675:7.I(b); 675:7.I-a, I-b and II.

# Meeting Frequency

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## **RSA 673:10**

- Planning Board
  - ✦ At least once per month
  - ✦ Consider having a monthly Work Session meeting
- ZBA, Heritage, Historic District, Ag, Housing
  - ✦ At the call of the chair

# Basic Meeting Mechanics

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- Members – (elected v. appointed)
- Alternates – Appointed by planning board, zoning board or select board.
- Organization – Board officers should be voted upon annually, meetings and hearing notices
- Majority = quorum is required to transact business
- Minutes and Written Decisions (676:3)– Available within 5 business days of such vote.

# Rules of Procedure

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## **RSA 676:1: Board MUST Adopt Rules of Procedure**

- Guide for board members, applicants, abutters, and the public
- Avoid arbitrary process, all applicants treated the same
- Identify when and how Alternates participate in meetings

# Public Hearing Process

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1. Convene and read legal notice and state the manner of hearing conduct
2. Board considers and discusses business (application or amendments) before them
3. Chair opens public hearing for public input
4. Chair closes public hearing and board deliberates
5. Make a motion with a second and vote.
6. Issuance of Decision (as applicable) and minutes according to 676:3

# Board Member Conduct

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- Come prepared
- Stays focused
- Honor the law
- Maintain order and respect
- Recuse when appropriate

# Board Member Disqualification

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## RSA 673:14, I Disqualification of Member.

No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, agricultural commission, or housing commission shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.

# Juror Standard

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500-A:12 Examination. –

I. Any juror may be required by the court, on motion of a party in the case to be tried, to answer upon oath if he:

- (a) Expects to gain or lose upon the disposition of the case;
- (b) Is related to either party;
- (c) Has advised or assisted either party;
- (d) Has directly or indirectly given his opinion or has formed an opinion;
- (e) Is employed by or employs any party in the case;
- (f) Is prejudiced to any degree regarding the case; or
- (g) Employs any of the counsel appearing in the case in any action then pending in the court.



II. If it appears that any juror is not indifferent, he shall be set aside on that trial.

# Avoiding Conflicts

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- Advisory Vote – RSA 673:14, II.
- Recuse (yes) vs. Abstain (no)
- Avoid Social Media Opinions on Pending Matters
- Disclose and Remove Yourself
- Err on the Side of Caution!

# OSI Planning and Zoning Resources

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- Planning Board and Zoning Board Handbooks
- Planning and Zoning Training
  - Annual Spring Planning & Zoning Conference
    - ✦ Saturday, May 15, 2021 – 9 am to 12 pm – Virtual, Free, & Recorded
  - Monthly Webinar Series on planning-related topics
- Plan-link listserv
- Planning News
  - Planning-related news and events sent out every Friday
- Online resources, data, and maps

[www.nh.gov/osi/planning/](http://www.nh.gov/osi/planning/)

# Contact Information

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## Contact Information:

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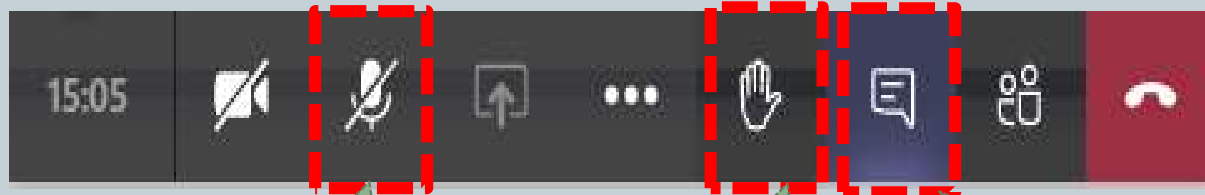
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# Question and Answer Session

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- If you would like to ask a question, please either raise your hand and unmute yourself or type your question in the Chat box. If on the phone, lines have been unmuted.



Click to mute  
and unmute

Click to raise  
and lower  
hand

Click to open  
Chat box